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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,631	10/02/2003	David J. Lauffer	VPI/02-113 US	4185

27916 7590 09/20/2005

VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE, MA 02139-4242

EXAMINER

FEDOWITZ, MATTHEW L

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/677,631	Applicant(s) LAUFFER ET AL.	
	Examiner Matthew L. Fedowitz	Art Unit 1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

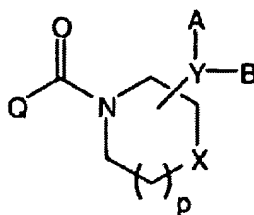
- | | |
|---|---|
| 1) ☐ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) ☐ Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) ☐ Other: ____. |

JA

ES

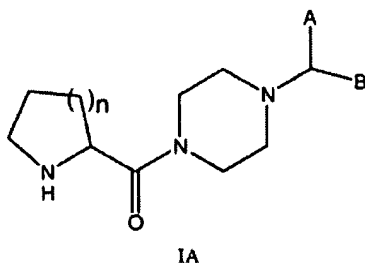
DETAILED ACTION***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:



Formula of Claim 1

- I. Claims 1-9 are drawn in part to compounds as set forth in the formula of claim 1 where X is carbon, classified in class 546, subclass 184.
- II. Claims 1-9 are drawn in part to compounds as set forth in the formula of claim 1 where X is nitrogen, classified in class 544, subclass 120.
- III. Claims 1-9 are drawn in part to compounds as set forth in the formula of claim 1 where X is oxygen, classified in class 544, subclass 73.
- IV. Claims 1-9 are drawn in part to compounds as set forth in the formula of claim 1 where X is sulfur, classified in class 544, subclass 56.
- V. Claims 10-16 are drawn in part to compounds as set forth in the formula IA below, classified in class 544, subclass 405.



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- VI. Claims 17-25 are drawn in part to methods for promoting neuronal repair or preventing neuronal damage with compounds as set forth in the formula of claim 1 where X is carbon, classified in class 514, subclass 277.
- VII. Claims 17-25 are drawn in part to methods for promoting neuronal repair or preventing neuronal damage with compounds as set forth in the formula of claim 1 where X is nitrogen, classified in class 514, subclass 247.
- VIII. Claims 17-25 are drawn in part to methods for promoting neuronal repair or preventing neuronal damage with compounds as set forth in the formula of claim 1 where X is oxygen, classified in class 514, subclass 228.8.
- IX. Claims 17-25 are drawn in part to methods for promoting neuronal repair or preventing neuronal damage with compounds as set forth in the formula of claim 1 where X is sulfur, classified in class 514, subclass 222.2.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. For example groups I-IV differ from group V because the compounds found within these groups have differing chemical cores as demonstrated by the classifications above. Groups I-V differ from Groups VI-IX because these groups are drawn to methods of use related to promoting neuronal repair or preventing neuronal damage. Applicant must pick an invention from the nine groups above.

Claims 1-25 are generic to a plurality of disclosed patentably distinct species comprising compounds with relating to the chemical core of the formula found in claim 1 and claim 10.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement may be traversed (37 CFR 1.143).

A telephone call was made to Nandakumar Govindaswamy on September 16, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Conclusion

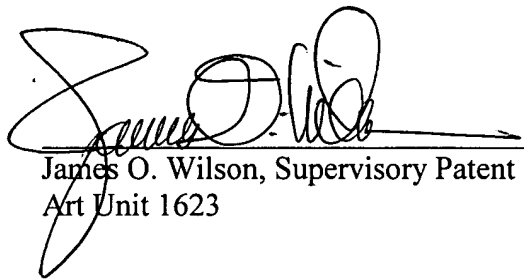
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Fedowitz whose telephone number is (571) 272-. If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, James O. Wilson, can be reached on (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew L. Fedowitz, Pharm.D., Esq.



James O. Wilson, Supervisory Patent Examiner
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